

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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MAYFLOWER TRANSIT, LLC,

Plaintiff,

- against -

**MEMORANDUM AND ORDER**

11-CV-663 (RRM)(VVP)

BRUCE COLVIN, RCNY RESTAURANTS, LLC  
and ARBY'S RESTAURANT GROUP, INC.,

Defendants.

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ROSLYNN R. MAUSKOPF, United States District Judge.

By motion filed May 20, 2011, plaintiff moved for default judgment against defendant RCNY Restaurants, LLC ("RCNY")<sup>1</sup> alleging failure to pay plaintiff's interstate tariff charges pursuant to a contract to ship household goods and the Interstate Commerce Commission Termination Act of 1995, 49 U.S.C. § 13702.<sup>2</sup> (Doc. No. 11.) By Order entered May 20, 2010, this Court referred that motion to the assigned Magistrate Judge, the Honorable Victor V. Pohorelsky, for a Report and Recommendation pursuant to 28 U.S.C. § 636(b). On September 20, 2011, Judge Pohorelsky issued a Report and Recommendation (the "R&R") (Doc. No. 16) recommending that the Court enter judgment in favor of plaintiff against RCNY, and awarding plaintiff: (1) contract damages in the amount of \$6,354.85; and (2) interest of \$1,143.88 through September 1, 2011, plus \$1.57 per day thereafter to the date of judgment. Judge Pohorelsky reminded the parties that, pursuant to Rule 72(b), any objection to the R&R was due within 14 days of receipt of the R&R. On September 20, 2011, plaintiff filed an Affidavit of Service

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<sup>1</sup> Although plaintiff originally moved against all defendants, plaintiff subsequently agreed to dismiss all claims with prejudice against defendants Colvin and Arby's Restaurant Group, Inc. (Stipulation and Order of Partial Discontinuance (Doc. No. 15) at 1; *see* Report and Recommendation (Doc. No. 16) at 1 & n.1.)

<sup>2</sup> This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1337(a).

indicating service that day on RCNY by regular mail of a copy of the R&R. (Doc. No. 17). No party has filed any objection.

Pursuant to 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72, the Court has reviewed the R&R for clear error and, finding none, concurs with the R&R in its entirety. *See Covey v. Simonton*, 481 F. Supp. 2d 224, 226 (E.D.N.Y. 2007). Accordingly, judgment shall enter in favor of the Plaintiffs against Defendant as follows: (1) contract damages in the amount of \$6,354.85; and (2) interest of \$1,143.88 through September 1, 2011, plus \$1.57 per day thereafter to the date of judgment. The Clerk of Court shall enter judgment accordingly, and close this case.

SO ORDERED.

Dated: Brooklyn, New York  
October 17, 2011

RRM  
ROSLYNN R. MAUSKOPF  
United States District Judge